

The first substantive ground of rejection is the rejection of Claims 1-5. Claims 1-5 stand rejected, under 35 U.S.C. §103(a), as being unpatentable over U.S. Patent No. 4,400,404 to Persi taken in view of U.S. Patent No. 5,756,137 to Viviano et al. and U.S. Patent No. 5,281,427 to Rahim.

The Official Action avers that Persi discloses a method of making a pizza food product in which dough is shaped into a rectangular shape, the pizza ingredients are placed along the central portion of the dough, the dough is folded along its longitudinal length such that long edges are in abutment, the edges are pressed against each other so as to form a tight seal and the filled dough is heated.

The Official Action admits that Persi does not teach folding the dough after it is cooked and coating the edges with an edible paste of starch. The Official Action further admits that Persi includes an additional step of forming a toroidal shape after folding the dough.

The secondary Viviano et al. reference is stated in the Official Action to disclose a method of making a filled food product. In that method food starch is applied to dough layers to help the dough regions stick to each other.

The second secondary reference, Rahim, the Official Action avers, teaches a process for producing pastry products. In this process dough discs, having controlled thickness and diameter, are formed. The dough discs are cooked, filled and a pasting spray is applied to seal the filling dough discs by closing the peripheral edges with the dough layers to enclose the filling material.

The Official Action argues it would have been obvious to one skilled in the art to omit the Persi step of forming a toroidal shape so that a rectangular shape could be obtained. The

Official Action argues that such a step only affects the shape of the product and not the type of product.

The Official Action further argues that the folding step after cooking is known, as evidenced by the Rahim reference, which teaches folding and sealing the paste after cooking. The Official Action submits that it would have been obvious to one skilled in the art to substitute one known processing technique for another known technique. Whether folding before or after cooking the same product, the Official Action states, yields the same product. The cooking of the product in an open face manner provides the advantage that the filled ingredients are cooked in a shorter period of time than if they were enclosed within the dough shell prior to cooking.

The Official Action observes that the Rahim teaching of applying a paste is within the scope of the known art as evidenced by Viviano et al. which teaches that starch is well known for use as an adhesive in this method. Thus, the Official Action concludes that it would have been obvious to use starch, as shown by Viviano et al., to seal the edges of the dough layers when the dough is folded after cooking. The Official Action further argues that it would have been obvious to apply the paste while the dough was hard to cause gelatinization of the starch so that the starch adheres to the dough layers. Finally, the Official Action makes one further leap and argues it would have been obvious to use flour as the alternate adhesive because flour contains starch.

It is apparent that the Official Action presumption of obviousness of this application is predicated upon the teaching of the newly applied secondary reference, Rahim. That is, the combined teaching of Persi and Viviano et al., which was previously applied to make obvious the method claims of the present application, are now admitted to be inadequate insofar as the newly applied Rahim reference is utilized in the outstanding Official Action. It is therefore apparent

that the patentability of method Claims 1-5 of the present application hinges upon the teaching of Rahim.

Before addressing the teaching of Rahim, it is important to emphasize the problems in the art solved by the process of Claims 1-5. Claims 1-5 are directed to a process of manufacturing a pizza-type food product which can conveniently be simultaneously held and consumed without the need of a plate to hold the pizza. That is, the pizza filling is conveniently enclosed by a dough envelope.

As indicated in the specification of the present application, pizza in the form of turnovers in which the pizza fillings are enclosed by the folded dough are known in the art. However, as indicated in the specification, satisfactory cooking of the filling ingredients leads to overcooking of the dough envelope and thus the burning of that envelope. On the other hand, the steaming of the filling ingredients, enclosed by the dough envelope, without heating of the dough envelope, greatly reduces the taste qualities of such a pizza. Moreover, the substantially semi-circular and scarcely rigid shape of this type of pizza, and the fact that the ingredients are cooked in a relatively tasty form, leads to running of the filling ingredients so that the pizza cannot be simultaneously held and consumed by hand.

Applicants submit that the combined teaching of Persi, Viviano et al. and Rahim does not produce a process in which a pizza food product is produced which overcomes these defects in the prior art.

The solution to the problems advanced in the outstanding Official Action are solved by cooking raw pizza dough with its pizza ingredients; folding the cooked dough with its pizza ingredients over itself, after cooking, and thus forming a pouch in a format corresponding to that

of the product to be obtained. This involves the substantial superposition of the top and bottom borders of the folded dough and applying, on the peripheral edge and on the possible ingredients which are level with the substantially superposed top and bottom borders, a cordon of edible paste, based on starch and/or potato starch, which solidifies under the heat of the cooked dough on leaving the oven and closing the pouch formed. Clearly, such a process is not disclosed by the combined teaching of Persi and Viviano et al. For this reason Rahim is applied for its alleged teaching of this missing step. However, applicant strongly urges that Rahim makes no such teaching.

The teaching of Rahim, relevant to the use of an edible paste, is provided at Column 3, lines 40-55. That discussion makes reference to Figure 5. That figure depicts a quarter of a circular disc folded over itself so that a flour and water paste is applied to section ADE. Thereupon a second folding step occurs to fold section BCE over section ADE and seals to it. Thereafter, paste is applied to the section BCE and a final folding step occurs wherein section DOC covers the preceding two sections and completely seals the filling ingredients within the pastry envelope. Thus, a triangular shaped food product is produced wherein the folded sections are sealed over one another.

Although the use of a paste better adheres one edge to the next, still the basis for sealing the pizza filling within the dough wrapper relies on the same principle as that used in Persi. That is, as in Persi, crimping of the dough layers seals the open edges for maintaining the filled material within the dough. So it is with the process taught by Rahim. In Rahim folded over layers, held by plates 71 and 72, rotate about hinge 73 to pinch the layers held by plates 71 and 72 in a manner analogous to that performed in Persi.

The result of these observations is that a step of applying a cordon of edible paste on the peripheral edge is not taught by the combined teachings of the references. As such, the prevention of leaking of the pizza filling is not accomplishable by the process of the combined references. Thus, the process of Claims 1-5 is not made obvious by the combined teachings of Persi, Viviano et al. and Rahim.

The second substantive ground of rejection is directed to Claims 8-10. Claims 8-10 stand rejected, on substantive grounds, under 35 U.S.C. §103(a), as being unpatentable over Viviano et al.

The Official Action states that Viviano et al. discloses a filled pocket dough product. The product is formed by folding one portion of the dough over another portion to form a pocket enclosing the filling. The product is baked. In addition to other means of minimizing seal breaches, Viviano et al. teaches the application of food starch to dough layers to help the layers stick to each other.

The Official Action admits to processing distinctions between the limitations of Claims 8-10 and processing details utilized in the Viviano et al. disclosure. However, the Official Action argues that processing details are not relevant to a product by process claim wherein the same product is produced.

It is important to emphasize that the Official Action implicitly admits to an important distinction between the product of Claims 8-10 and the product produced by Viviano et al. That is, the Official Action states that Viviano et al. teaches the application of a layer of a food starch between dough layers. The Official Action, appreciating that this step results in a product

different from the product of Claims 8-10, wherein a starch paste is disposed between top and bottom borders of a pouch, states that it is unclear what the applicant means by this.

The language of Claim 8 is very simple and clear. Claim 8 is directed to a food product produced in the shape of a pouch closed by a cordon of edible paste disposed between top and bottom borders. It is true that the remainder of Claim 8 is predicated upon process limitations. However, the physical requirement that the food product be closed with a cordon of edible paste between top and bottom borders of a pouch is not met by Viviano et al. The seal formed around of the food product of Viviano et al. is formed by sealingly pressing an upper region 20 against a lower region 21 therebelow in the areas between filling ingredient servings 18. (Column 4, lines 56-59).

The sole disclosure of utilization of edible paste in Viviano et al. is far removed from a cordon of edible paste. A standard dictionary defines cordon as a cord, a braid, a ribbon or the like used as a fastening agent. The teaching of Viviano et al., as set forth at Column 6, lines 9-11, merely states that a food starch is applied to a dough layer to aid in strengthening the seal formed by scrimping the edges of regions 20 and 21. That teaching is not, in any way, a teaching of a pouch closed with a cordon of edible paste, as depicted as a separate element 3 in Figure 1 of the present application. The food starch applied to dough layer 14 of Viviano et al. does not form any element of the final product. As such, it cannot be said that the product produced in Claim 8, and Claims 9 and 10 which both depend from Claim 8, are in any way made obvious by the teaching of Viviano et al.

The above remarks establish the patentable nature of all the claims currently in this application. Notice of Allowance and passage to issue of these claims, Claims 1-5 and 8-10, is therefore respectfully solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Marvin Bressler", with a long horizontal flourish extending to the right.

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